

Agenda Item no. 173.

Plaintiffs and defendants both seek rulings that their opposition should be required to supplement answers to Interrogatories. The parties submitted a table of outstanding disputes. The Special Master now rules on the issues raised. The discovery requests that are highlighted below require supplementation.

The Special Master notes that these rulings are made in context: the parties have pursued and obtained great volumes of *other* discovery in the Track One cases; the Special Master has already ruled on numerous discovery disputes that overlap the instant requests for supplementation of interrogatory answers; the period for fact discovery is closed (with some very minor exceptions) and the parties are well into expert discovery, with summary judgment and *Daubert* briefing imminent; and trial of the Track One cases is scheduled for October of 2019. While much of the requested supplementation might be appropriate if trial was set for October of **2020**, all parties must accept a level of fact discovery that is less than complete and entire.

As always, the Special Master adds that the rulings below do not preclude similar requests for discovery in future MDL cases. *See* Discovery Ruling No. 8 at 5.

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#### **Manufacturer Defendants' Interrogatories to Plaintiffs**

No. 4 - Supplementation not required; the requested additional information is appropriately provided via expert reports.

No. 8 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture.

No. 9 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture.

No. 14 - Plaintiff Cuyahoga County must provide a supplemental answer. The existing response is not sufficient. Supplementation by plaintiff Summit County is not required; the existing response is sufficient.

No. 16 - Plaintiffs must provide supplemental answers. Existing responses are not sufficient.

No. 17 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient.

No. 18 Summit, No. 19 Cuyahoga - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture.

No. 19 Summit, No. 20 Cuyahoga - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture.

No. 25 Summit, No. 26 Cuyahoga - Plaintiffs must answer this interrogatory.

No. 27 Summit, No. 28 Cuyahoga - Supplementation not required; the requested additional information is appropriately provided via expert reports.

### **Plaintiffs' Interrogatories to Defendants**

Endo & Mallinckrodt No. 22 - Defendant(s) must answer this interrogatory, now that plaintiffs' expert reports have been filed.

Teva No. 33 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture.

Teva No. 34 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture.

Walmart No. 3 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture.

Walmart No. 5 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture.

Walmart No. 18 - Walmart must answer this interrogatory to this extent: Walmart must identify current and former Walmart employees who: (1) worked in SOM, distribution operations, compliance, governmental/regulatory affairs, or loss prevention; *and* (2) also worked at the DEA. Walmart's statement that it "has identified no current or former employees involved in Walmart's distribution operations concerning the Relevant CII Opioids who were previously employed by the DEA" is, by itself, not sufficient.

Walmart No. 22 & 28 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture.

### **Distributors' Interrogatories to Plaintiffs**

No. 9 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture; and/or the requested additional information is appropriately provided via expert reports.

No. 10 - Supplementation not required; responses provided (or promised would be provided) to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture.

No. 11 - Supplementation not required; responses provided (or promised would be provided) to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture.

No. 12 - Supplementation not required; responses provided (or promised would be provided) to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture.

No. 13 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture.

No. 17 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture; and/or the requested additional information is appropriately provided via expert reports.

No. 18, exh.1 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture; and/or the requested additional information is appropriately provided via expert reports.

No. 24, 25, 26 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture; and/or the requested additional information is appropriately provided via expert reports. Moreover, it is at least in part untenable to require Plaintiffs to point to all documents showing fraud *by omission*.

No. 27 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture; and/or the requested additional information is appropriately provided via expert reports.

No. 29 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not

proportional to the needs of the case at this juncture; and/or the requested additional information is appropriately provided via expert reports.

**Pharmacies' Interrogatories to Plaintiffs**

No. 6 - Supplementation not required; responses provided to the Interrogatory and related discovery are sufficient; and/or the burden of answering the interrogatory as written is not proportional to the needs of the case at this juncture.